

Supreme Court Reverses D.C. Circuit in MATS Case

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Today, the Supreme Court of the United States held that EPA unreasonably interpreted the Clean Air Act to not require it to consider costs when determining whether it is appropriate and necessary to regulate hazardous air pollutant emissions from power plants under Section 112 of the Clean Air Act. By EPA's estimate, the cost of compliance with the Mercury and Air Toxics Standards (MATS) is \$9.6 billion per year, compared with \$4 to \$6 million in quantifiable benefits from reductions of hazardous air pollutant emissions. Writing for the Court, Justice Scalia remarked that "[o]ne would not say that it is even rational, never mind 'appropriate,' to impose billions of dollars in economic costs in return for a few dollars in health or environmental benefits."

Reversing the D.C. Circuit, the Court held that EPA must consider costs before deciding whether regulation of hazardous air pollutant emissions from power plants is appropriate and necessary. The Court did not decide how the Agency must consider costs (for example, through a formal cost-benefit analysis), noting instead that "[i]t will be up to the Agency to decide (as always, within the limits of reasonable interpretation) how to account for cost." The Court therefore remanded the case to the D.C. Circuit for further proceedings consistent with its opinion.

Justice Scalia's majority opinion was joined by Chief Justice Roberts and Justices Kennedy, Thomas, and Alito. Justice Thomas filed a concurring opinion. Justice Kagan filed a dissent, joined by Justices Ginsburg, Breyer, and Sotomayor.

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